

## **REMARKS**

Reconsideration and withdrawal of the rejections set forth in the Office Action dated June 9, 2004, are respectfully requested.

### **V. Rejections under 35 U.S.C. § 103**

#### **A. The Applied Art**

Claims 1-5 and 7-19 are rejected under 35 U.S. C. § 103(a) as being unpatentable over U.S. Patent No. 6,527,641 to Sinclair et al. ("Sinclair") in view of U.S. Patent No. 6,470,180 to Kotzin et al. ("Kotzin") in view of U.S. Patent No. 4,858,930 to Sato ("Sato").

Claim 6 is rejected under 35 U.S. C. § 103(a) as being unpatentable over Sinclair in view of Kotzin in view of Sato and further in view of U.S. Patent No. 5,890,963 to Yen ("Yen").

#### **B. Analysis**

The Manual of Patent Examining Procedure (MPEP) states that,

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

(MPEP § 2143, 8<sup>th</sup> Ed.)

The Examiner does not establish a *prima facie* case of obviousness in the June 9, 2004 Office Action. Rather, the Office Action completely lacks discussion of many of applicant's claim elements. For example, the Office Action does not address applicant's "protocol handler" claim element, which is present in various contexts in all of applicant's independent claims. The Office Action also fails to address each of applicant's specific claim elements related to playing multiple sessions of a game, which

are also present in various contexts in all of applicant's independent claims. To provide a more specific example, the Office Action does not address any of the claim elements illustrated in the table below:

Claim #	EXAMPLES OF CLAIM ELEMENTS THAT HAVE NOT BEEN ADDRESSED
1	<p>establishing a game state on a game engine running on the server, wherein the game engine includes a protocol handler that supports multiple content protocols simultaneously and facilitates communication between the multiple client devices and the game engine;</p> <p>disconnecting from the game on the server at a time when the user is at a particular state of the game, wherein the disconnection ends a first session, wherein the first session is played on a first client device having a first device type, and wherein the first client device and the game engine communicate using a first protocol;</p> <p>reconnecting to the game at a later time; transmitting identifying information to the server; and playing the game in a second session, wherein the state of the game at the beginning of the second session is based on the state of the game at the end of the first session, wherein the second session is played on a second client device having a second device type, and wherein the second client device and the server communicate using a second protocol that is distinct from the first.</p>
7	<p>establishing a protocol handler at a server;</p> <p>for each client device, maintaining a game state on a server, wherein the server supports multiple content protocols simultaneously via the protocol handler;</p> <p>when a client device reconnects to the server, transmitting to the reconnecting client device a game state based on the game state maintained on the server.</p>
11	<p>disconnecting from the game on the server, wherein the user is at a particular state of the game, wherein the disconnection ends an early session, and wherein the early session is played on a first client device having a first device type;</p> <p>reconnecting to the game at a later time; transmitting identifying information to the server, wherein the identifying information is used by a protocol handler at the server, and wherein the protocol handler facilitates communication with multiple client devices each having a distinct device type; and</p> <p>playing the game in a later session, wherein the state of the game at the beginning of the</p>

	later session is based on the state of the game at the end of the early session, and wherein the later session is played on a second client device having a second device type.
14	<p>a connection component for disconnecting from or connecting to the game on the server;</p> <p>a transmission component for transmitting identifying information to the server, wherein the identifying information is used by a protocol handler at the server, and wherein the protocol handler facilitates communication with multiple client devices each having a distinct platform; and</p> <p>a game playing component, the game playing component starting a second session at a game state based on a game state achieved during a previous gaming session, wherein the previous session was played on a first client device having a first platform, and wherein the second session is configured for playing on the first client device, on a second client device having the first platform, or on a third client device having a second platform distinct from the first platform.</p>
17	<p>a maintenance component for maintaining a game state on a server for any player, wherein each player can be associated with one or more client devices having distinct platforms;</p> <p>a protocol handler component for reconnecting to the server, wherein the protocol handler component facilitates communication with multiple client devices, and wherein at least some of the multiple client devices communicate using distinct protocols; and</p> <p>a reception component for receiving a game state at a client device, wherein the game state is based on the maintained game state.</p>

The MPEP also states that

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.

(MPEP § 2144.03 (A), 8<sup>th</sup> Ed.)

In the Office Action, the Examiner asserts that "[w]hile the specific feature is unstated in Sinclair in view of Kotzin, it is considered well within the capabilities of one of ordinary skill in the art to allow game connectivity independent of end user device, especially in light of the availability of persistent game states." Applicant disagrees with this assertion and calls on the Examiner to support the finding with adequate evidence.

(See MPEP § 2144.03 (C), 8<sup>th</sup> Ed.) Allowing game connectivity along with persistent game states was not commonplace at the time of the invention. For example, a typical multi-user game required all users in the game to be connected simultaneously. If a user dropped his or her connection, that user lost his or her place in the game. In addition, current games at the time of the invention did not allow for users on different platforms (e.g., mobile phone, palmtop computer, etc.) to play in the same game or against each other because of differences in the platforms.

Furthermore, the Examiner does not assert, nor is it true, "that it is considered well within the capabilities of one of ordinary skill in the art" to allow game connectivity along with game reconnectivity (of the same game) independent of end user device.

For the reasons stated above, the Examiner has failed to establish a case of prima facie obviousness. Accordingly, the burden remains on the Examiner to factually support a conclusion of obviousness, or withdraw the present rejections.

## **VI. Conclusion**

In view of the foregoing, the claims pending in the application comply with the requirements of 35 U.S.C. § 112 and patentably define over the applied art. A Notice of Allowance is, therefore, respectfully requested. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-3925.

Respectfully submitted,

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